82-1344

Office-Supreme Court, U.S.
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ALEXANDER L. STEVAS,
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1982

Mrs. Dorothy Cele, pro se
Petitioner

v.

Alfred R. Kinney, Esq. and
Horowitz, Bross & Sinins
Respondents

PETITION FOR WRIT OF CERTIORARI TO THE SUPERIOR COURT APPELLATE DIVISION

CIVIL
Docket A-3271 81T1
Docket 20,150

Mrs. Dorothy Cele
Divine Tracy Hotel
20 South 36th St. (707)
Phila. Penna. 19104
(215) 382-4310

Federal Question

United States Supreme Court

Can the necessities of
Res Adjudicata be waived?

Whether the court has
jurisdiction or not?

Supreme Court of New Jersey

Is legal injury the
cost of daily living?

Superior Court Appellate Division

Whose right has been
violated? Was the
court correct or not?
Did the court err
under R. 4:50-1(c)?

Validity of a proceeding under

the authority of the Unites States

28 U.S.C. 1257 (3)

(Cele pronounced Sealey)

Case Presented

Constitutional Procedure

1. There is no more important word in the constitution than jurisdiction.

Jurisdictional Inquiry

2. Whether the court has jurisdiction or not?

Jurisdictional Duty

3. A court is bound by its record to prevent usurpation.

Jurisdictional Error

4. Abuse of discretion divests jurisdiction.

Usurpation by the Judiciary

5. The plaintiff, Mrs. Dorothy Cele has waived none of her rights.

Case Presented Continued

Beyond Jurisdiction

6. Denial of appealable judgment or order procured by the defendants for failure of the court of first instance to protect the state and its mandatory record filed 8/27/79.

Selective Enforcement

7. The case is open and active. There is no stipulation of dismissal. There is no judgment. There is no order. There was no trial. Perfection of Appeal is an impossibility. out-of-time. Technicality. Jurisdiction.

Table of Contents

1. Cover - Listing..... i
2. U.S.C. 1257 (3)..... ii
3. Case Presented..... iii-iv
4. Federal Question..... v
5. Table of Contents..... vi
6. Appendix Index..... vii
7. Law Cited..... viii
8. Opinions Cited..... ix
9. Table of Cases..... x-xiii
10. Opinions Below..... 1
11. Jurisdiction..... 2
12. Statement of the Case..... 3
13. Argument..... 44
14. Conclusion..... 64
15. Relief Requested..... 65
16. Appendix..... 66

Appendix Index

1. Appendix A Orders-Four.....67

2. Appendix E Delinquency Notice.71

3. Appendix F Statutory Record...73

4. Appendix G Civil Complaint....83

5. Appendix H-V Letters.....85

124

Law Cited

United States Supreme Court

McAllister v. Kuhn 96 U.S. 87 1877

Fatal Defects cannot be waived.

State Statute

Attorneys may be sued as other persons in all courts of this state. N.J.S.A. 2A:13-2.

Opinions Cited

1. Chief Justice Hazelrigg..... 47
107 Ky. 419 1899

2. Judge Frank..... 52
92 Fed. Supp. 218.

3. Mr. Justice Field..... 50
93 U.S. 274 1876

4. Hon. Fred C. Lamm,C.J..... 54
161 SW 156-57

5. Chief Justice Trenchard..... 53
85 N.J.L. 632 1914

6. Richard, J., pro tem..... 57
192 Cal. 528 1923 93 C 321

7. U.S. Constitution Article 6.. 59

8. U.S. Constitution.....58
Fourteenth Admendment

9. Primer of Principles

Table of Cases

Superior Court

Civil Liability

138 N.J. Super. 233 App. Div. 1975

140 N.J. Super. 476 App. Div. 1976

Professional Liability

126 N.J. Super. 577 App. Div. 1974

145 N.J. Super. 234 App. Div. 1976

Pecuniary Injury

80 N.J. Law 152 App. Div. 1910

92 N.J. Law 631 App. Div. 1918

Continuing Damage

43 N.J. Misc. 13 1924

85 N.J.L. 32 1879

Table of Cases

Superior Court Appellate Division

Jurisdiction

115 N.J.Super. 224 App. Div. 1971

74 N.J. Super. 608 1901

R.2:8-1(a)

Leading Interrogation

75 N.J.Super. 584 App. Div. 1962

Objections & Exceptions

85 N.J.L. 632 App. Div. 1914

Malconduct

165 N.J.Super. 211 App. Div. 1978

43 N.J.Law 667 1881

Table of Cases

Superior Court Appellate Division

Joint Liability

175 N.J.Super. 26 App. Div. 1980

Six Cent Damages

92 N.J.L. 631 App. Div. 1918

Estoppel

140 N.J.Super. 517 App. Div. 1976

Table of Cases

State Supreme Court

Jurisdiction

126 N.J. Super. 577 App. Div. 1974

Judicial Annullment

1 N.J.L. 400 1795

97 N.J.L. 468 p. 469

Technicality

7 N.J. 81 1951

Opinion Below

1. Superior Court Appellate Division
   6/12/82 unreported.

2. Supreme Court of New Jersey
   11/12/82 unreported.

3. Four Orders entered in the case
   filed in Appendix A-B-C and D.

4. Delinquency Notice - Supreme Court
   Re: Alfred R. Kinney, Esq.
   9/10/82 filed Appendix E.

Petitioners Comment

-To hold that one may waive
her right to due process is
logically waiving of the record.

Jurisdiction

1. The order of the Supreme Court of New Jersey was filed on 11/12/82.

2. The jurisdiction of this court is invoked under 28 U.S.C. 1254 (1).

3. By Writ of Certiorari granted upon the petition of any party to any civil or criminal case before or after resolution of judgment or decree.

Statement of the Case

Jurisdiction of the subject

matter cannot be waived.

Statement of the Case Continued

Whether a judicial act in a court of first instance which disallows legally entitled rights and fails to protect the state and its mandatory record, and plainly indicates its adverse judicial act and its reason therefore, appearing of the statutory record is unconstitutional and is beyond jurisdiction conferred by the mandatory record and is an arbitrary act against which courts afford relief?

Statement of the Case Continued

Whether a judicial act in a court of first instance which fails to protect its record is blind to the interest of the state whose interest invokes consideration above and beyond the interest of the parties is inadequate guidance to a court of first instance by an overbroad statute involving legally entitled rights and is a danger in a court of first instance?

Statement of the Case Continued

1. It is all impersonal. The mandatory record filed by the plaintiff on 8/27/79 did victoriously withstand the defendants and on 6/1/81 the mandatory record did rise in victory. (Admission of Liability)

2. In a nice manner on 6/1/81 in Essex County Courtroom 914 Alfred R. Kinney, Esq. and Horowitz, Bross & Sinins were both caught by the New Jersey State Code of Justice. (Equal Division/Joint Liability)

Statement of the Case Continued

3. On 6/1/81 in abnegation of judicial responsibility vested by the constitution the court of first instance disallowed the plaintiff's legally entitled rights and obtained a champertous agreement in the defendants favor. T5-4.

4. The defendants consented to the judicial act without objection in the statutory record dated 6/1/81 and the judicial act voluntarily conferred an advantage upon the plaintiff just the same. T2-22 T2-23. (Equal Division/Joint Liability)

Statement of the Case Continued

5. The statutory record of 6/1/81 shows that it is the defendants who requested (unknown to the plaintiff) an interview with the court in chambers and that interviewing of counsel separately is ill-advised. T5-16.

6. That the court then next summoned the plaintiff who was seated in open court waiting for her turn to approach the bar in open court into chambers after her adversaries and told the plaintiff herself before the fact that her case had a fatal defect in it.

Statement of the Case Continued

7. The statutory record shows that the court waived fact, figure and principle in chambers and that an objection was squarely made by the plaintiff in chambers and disallowed by the court in chambers. T3-23.

8. Research shows that there was no "option" before the plaintiff on 6/1/81 and that the option set before the plaintiff by the court on 6/1/81 is illegal. T3-1 The pleadings cannot be waived.

Statement of the Case Continued

9. The statutory record of 6/1/81 shows that the court waived its mandatory record in chambers and boasted of it in open court when it said: "notwithstanding that" T3-24.

10. The statutory record of 6/1/81 shows that the court waived its mandatory record in open court when the plaintiff said: "that statement would be correct" T4-4 and the plaintiff's exception passed without judicial reconsideration of its own judicial act.

Statement of Case Continued

11. On 6/1/81 in Essex County Courtroom 914 the plaintiff intended to sign the release upon receipt in the mail for the sum of $.00 in self-respect.

12. At no time on 6/1/81 did the plaintiff intend to touch a penny of the sum of $250. The sum of $250. is not the plaintiff's money. The sum of $250. is blood money. Who would have such gain?

Statement of the Case Continued

13. Upon discovery of advantage the plaintiff got rid of the judicial act irrespective to gain by mailing a certified twenty page Letter of Statement to the court itself in disaffirmance by the plaintiff for the benefit of one and all.

14. The plaintiff mailed a copy of the twenty page Letter of Statement to the Clerk of Superior Court, all counsel of record and to all those concerned.

Statement of the Case Continued

15. Upon receipt of the plaintiff's twenty page certified Letter of Statement dated 7/17/81 certified number 619936 the court itself sat silent and failed to bring the parties back to courtroom 914 to correct its own judicial act from the start.

16. Under the direction of the court T5-4 the plaintiff continued on through every conceivable erroneous and detrimental opposition and upon discovery of denial of appealable judgment or order and further procurement of the judicial act by the defendants the plaintiff repudiated the whole transaction.

Statement of the Case Continued

17. On 6/1/81 in Essex County Courtroom 914 I came to do What I came to do. Alfred R. Kinney, Esq. and Horowitz, Bross, & Sinins cannot "give" me anything. Mathematical Law is my shepherd I shall never want.

18. On 6/1/81 I added to the net value of the universe. I moved the above entitled ponderposity to the good of the whole world without legal accoutrement and with a fatal defect in a self-regulated profession.

Statement of the Case Continued

19. On 6/1/81 the New Jersey State Code of Justice helped me when I could not help myself. Thanks to the power that administers justice the defendants adjudged themselves wrinkled and liable.
(Equal Division/Joint Liability)

20. In a matter of months since the judicial act of 6/1/81 the defendants committed the same offense to the letter by jilting each other again in the New Jersey State Supreme Court on 9/10/82.
(Equal Divsion/Joint Liability)
Delinquency Notice Appendix E.

Statement of the Case Continued

21. In the matter of personal injury which occurred 2/22/77 during which surgery occurred five times Alfred R. Kinney, Esq. and Horowitz, Bross & Sinins concealed the contents of the entire file.

22. Alfred R. Kinney, Esq. and Horowitz, Bross & Sinins fail to master their own economic situation. Alfred R. Kinney, Esq. and Horowitz, Bross & Sinins are legally responsible to make my purse whole.

Statement of the Case Continued

23. This complaint has been filed with the District Fee Arbitration Committee V, the District Ethics Committe V, the Superior Court the Appellate Division, the State Supreme Court and the District Ethics Committee VII and it is yet unheard.

24. There is and there always will be some form of public prosecution for legal injury. "If the case is too hard for them bring it to me and I will hear it." Moses

Statement of the Case Continued

25. Alfred R. Kinney, Esq. made no effort to reach a conclusion in a matter of personal injury, kept every cent he could from me for 24 months, swindled the sum of $3,260 in blood money from the claim causing me to return to work again and again unhealed and uncured in the presence of ready benefits until unable to continue.

26. ARK kept the claim in error and delay with excuses and untrue representations, replaced work with rhetoric, indulged in dilatory tactics, failed to communicate, concealed documents, failed to write a single letter of his volition to any party to the claim in 24 months, inflated his cost and acted only under necessity of penalty an abomination in the extreme.

Statement of the Case Continued

27. In hardship and two years of illegal delay, I dismissed Alfred K. Kinney, Esq. on 1/25/79. I fired Horowitz, Bross & Sinins on 3/7/79 for falsehood to Liberty Mutual and still they mispractice.

28. 45 days later on 4/20/79 Liberty Mutual opened its hand to me unsought to take what I require. in economic honesty to prevent pecuniary loss to me in absence of legal care for 26 months in a matter of personal injury.

Statement of the Case Continued

29. Horowitz, Bross & Sinins held out as expert failed to take curative action to correct the neglect of Alfred R. Kinney, Esq. concealed liability of both and failed to complete the services hired for and without a minute of honest work or a cent of honest cost overreached the itemized fee the sum of $3,265.81 on 4/23/79.

30. I went to the Legal Aid Office and was referred there to the District Fee Arbitration Office V I was further advised by Legal Aid upon computing of the figures not to endorse the draft. On 6/4/79 I filed a Complaint with the DFAC for overreaching $3,265.81.

Statement of the Case Continued

31. The District Fee Arbitration Secretary contacted the HBS office and as a result I received a letter dated 6/12/79 from Alan Y. Hedvin, Esq. in which the itemized fee was reduced from $11,963.50 to $8,698.69 thanks to Joseph A. Bottitta, Esq. Secretary of the DFAC V.

32. I notified the DFAC office that the draft remained unendorsed pending DFAC procedure to completely solve the problem. HBS held the draft in all around silence for two weeks.

Statement of the Case Continued

33. The DFAC office fell silent. In absence of DFAC procedure or response from the respondents within ten days as regulation requires, I went to the DFAC office to inquire on 6/27/79. Joseph A. Bottitta, Sec. telephoned Alan Y. Medvin, Esq. of HBS and requested on the telephone that the Arbitration Letter dated 6/27/79 be written.

34. I went to the HBS office on 6/27/79 as directed by Joseph A. Bottitta, Sec. and Alan Y. Medvin, Esq. fired for falsehood for the betterment of his conscience wrote a false false Arbitration Letter dated 6/27/79 which exposed the offenses and falsehoods of ARK and HBS.

Statement of the Case Continued

35. The DFAC remained silent for 365 for 365 days and acknowled no mail as regulation requires. I never received responses from the respondents from the DFAC office in the complaint filed 6/4/79.

36. I further discovered on 7/12/79 that ARK inflated his cost and that HBS had no cost as represented. and they left the claim with the bills to pay. At further postponement of recouperation of self and circumstance I filed a Civil Complaint pro se on 8/27/79. Appendix G.

Statement of the Case Continued

37. On 11/2/79 in Essex County Superior Court the Court said, "Mrs. Cele the District Fee Arbitration Committee will take of it". I said, "No. No they won't". The court granted leave to file an Amended Complaint on 11/2/79.

38. On 11/30/79 Alan Y. Medvin, Esq. as representative counsel for ARK and HBS failed to appear in Essex County Superior Court and telephoned an excuse to the court instead.

Statement of the Case Continued

38. The District Fee Arbitration Office continued in silence contrary to regulation for eight months. In the interest of all concerned I telephoned the DFAC Office January 1980 and was told to call back. On the second call I was informed by Joseph A. Bottitta, Sec. that the case had "just" been sent to the office of William C. Connelly, Esq.

39. William C. Connelly scheduled a DFAC hearing for 1/29/80. The respondents adjourned it. Appendix H-I.

Statement of the Case Continued

40. William C. Connelly, Esq. scheduled a DFAC hearing for the second time. The respondents adjourned the second hearing. The District Fee Arbitration Office V remained completely silent. Appendix J.

41. In civil procedure ARK and HBS defaulted throughout, failed to timely file an answer to the Amended Complaint, set aside an Entry or Default without stating a Meritorious Defense, failed to set forth a defense in law, litigated by the exhaustion method and resorted to anything to escape accountability to authority.

Statement of the Case Continued

42. In the absence of any and all legal enforcement I filed an ethics complaint with the District Ethics Committee Office V in April 1980 with Richard L. Bland, Jr., Secretary.

43. In absence of due process I spent one full day in June 1980 on the telephone dialing social service agencies and referrals until I dialed an attorney in Glouster County who said to me, "The state does not want you running around like that. Write to Robert D. Lipscher".

Statement of the Case Continued

44. I wrote and mailed a letter dated 6/5/80 to Robert D. Lipscher, Administrative Director of the Courts. As a result I received a letter dated 6/12/80 from Richard J. Englehardt, Esq. staff attorney. Appendix K.

45. As a further result thanks to Richard J. Englehardt, Esq. I received a four-page twelve paragraph letter dated 6/27/80 from Roger H. McGlynn, Chairman of the District Fee Arbitration Office V. Appendix L.

Statement of the Case Continued

46. Upon administrative inquiry at my request RHM Chairman scrambled to explain a 365 day DFAC V silence to the Admin. Office in his letter dated 6/27/80 which was exactly 365 days tardy from the DFAC V Arbitration Letter dated 6/27/79. RHM wrote that upon admin. inquiry he was in receipt of "boxes" (9X12business envelope box) of my mail (all unanswered) and RHM Chairman used my unacknowledged mail in recitation in self-rescue and his letter itself shows absence of DFAC V timeliness, absence of DFAC corrective correspondence, absence of DFAC prior referral to its chairman and absence of DFAC V respect for its chairman as duty requires.

47. Roger H. McGlynn, Chairman himself established in his letter dated 6/27/80 that ARK and HBS are legally obligated for legal damage resulting from legal injury a favor for the asking.

Statement of the Case Continued

48. RHM further wrote the following sentence in his letter dated 6/27/80: Judge Thompson through his secretary advised the panel that he proposed to continue the proceedings before him. In relief and security that the case would be heard in Superior Court as promised in the DFAC V letter dated 6/27/80, I withdrew my ethics complaint filed with the DEC V on 4/1980 by letter dated 7/31/80 (p.27). Appendix N. I received a letter dated 10/9/80 from Richard L. Bland, Sec. DEC V in acknowledgement of my letter withdrawing the DEC V Ethics complaint of 4/1980. Appendix O.

49. In civil orocedure, the defendants failed to appear on 11/30/79, failed to timely file an answer to the Amended Complaint, set aside an Entry of Default without stating a Meritorious Defense on 2/8/80, removed paper clip markers from documents in a secret way during inspection of the file, filed a motion returnable 6/13/80 that I name an expert witness or in the alternative such expert not be permitted to testify.

Statement of the Case Continued

50. I discovered in court on 6/13/80 that the defendants were communicating with the attornies I sought to engage. In civil procedure both defendants filed a jury demand on 10/15/79 and on 12/18/79 and in court on 6/1/81 both defendants asked my consent to waive the jury. On 6/1/81 in Essex County Courtroom 914 the court elected to disregard its due process record and built a record of its own in favor of special interest. Appendix F.

51. At home I began typing a letter to the court itself stating that the defendant Alfred R. Kinney, Esq. need not send the sum of $250. to me for it would only necessitate that I return it. Each word typed verified itself and the letter expanded page by page. I received the release in the mail from the defendants. I continued to type the letter. I received an unprecendented second letter from the defendants requesting the release. I rewrote and retyped the letter into the form of a 20 page statement in disaffirmance of of the whole release.

Statement of the Case Continued

52. I mailed the 20 page statement to the court itself by certified mail dated 7/17/81 and a copy to the Clerk of Superior Court CMRRR 9732457, all counsel of record and all those concerned. The court itself (having lost full control over itself) failed to act for the good of each and all of us in seeming affirmance that the case was closed.

53. Under the direction of the court of 6/1/81 (T5-4 "she cannot try the case"). I mailed a notarized letter of complaint against ARK and HBS to the District Ethics Committee office V of the Supreme Court of New Jersey by certified mail on 8/21/81 and it was duly received by Richard L. Bland, Sec. on 8/28/81. I mailed a copy to the court, to all counsel of record and all those concerned. Richard L. Bland, Sec. failed to acknowledge the complaint duly received by certified mail and any and all mail of about 300 pages in binders in 100% silence from 8/28/82 to the present date. On 2/21/82 I dispatched a mailgram of inquiry to the DEC V office. The DEC V secretary failed to reply. Appendix Q.

Statement of the Case Continued

54. On 2/26/82 I phoned the DEC V Office and the current secretary Harold Rubenstein himself answered the telephone. I asked HR if he could tell me how to file an ethics complaint. HR explained to me exactly how to file. I said to HR, "If that is the way to file, why haven't you answered my mail?" His end of the line went silent. I said, "This is Mrs. Cele".

55. HR said, "Mrs. Dorothy Cele?". And in addition to reciting my full name from memory, HR further recited my place of residence from memory. HR collected himself and shifted the responsibility which he is duly employed to the former secretary, Richard L. Bland who HR replaced sometime in the interim between 8/21/81 and 2/26/82. I questioned HR then as to his failure to answer my mailgram of inquiry of 2/21/82 as well as any and all mail including 300 bound pages from 8/28/81 to 2/26/82 as regulation requires. HR said that Richard L. Bland told him to tell me that the case had been heard and dismissed by the committee.

Statement of the Case Continued

56. I asked HR how that could be when I had not received a single word at all. HR as duly employed secretary said, "I'm pretty sure that is what he told me". In absence of a single word in 7 months, I asked HR if he would write a letter of information to me. HR said, "When I get to it". I said to HR already in 7 months of delay, "Could you write it early next week?" In shifting of all duty Harold Rubenstein, Sec. said, "Call Robert Carney". (Trenton, N.J.). I never heard a word from HR in answer to my telephone inquiry from 2/26/82 to the present date.

57. From 2/26/82 to 3/5/82 I dispatched fifteen straight mailgrams to the authorities in Trenton. As a result I received two letters dated 3/5/82 and 3/6/82 from David E. Johnson, Jr., Esq. Chief of Ethics and Professional Services located in Trenton, N.J. DEJ enclosed the "contents" of the administrative file in his letter dated 3/6/82 in continuing obstruction of justice and instead opened the door to truth even against his own will.

Statement of the Case Continued

58. Instead, I discovered from two of the documents enclosed by DEJ that the DEC V practiced a fraud upon the Administrative ffice of the Courts in Trenton on 8/28/81 by fraudulently filing the two documents dated 7/31/80 and 10/9/80 and failing to file the ethics complaint duly received by Richard L. Bland, Sec. on 8/28/81. (p.33).

59. I notified David E. Johnson at once of the fraud and in reply DEJ dared to quash a matter entrusted to him. DEJ wrote advising that I not contact other authorities and he requested that I only contact him and then David E. Johnson himself fell silent with his work undone. So, I dispatched another batch of mailgrams to the authorities in Trenton. I telephoned the Superior Court Clerks office office and was referred to the appellate court. I discovered in the docketing procedure that the case was open and active. I filed a Notice of Appeal 3/23/82.

Statement of the Case Continued

60. As a result of the second batch of mailgrams dispatched to the authorities in Trenton, I received another letter from DEJ in which he disregarded the facts presented and wrote in role reversal that I "prove" the fraud. The matter was already proven by the states own metered time clock, the states own administrative file, the states own Chief of Ethics and by over 300 pages of mail in nine binders concealed in the DEC V office and all conspicuous by its absence.

61. After having already mailed 300 pages to the DEC V office, at further postponement of recouperation of self and circumstance I prepared and mailed on 6/14/82 a binder containing 99 pages of proof including twelve certified receipts in a mailing bag addressed to Robert D. Lipscher to to prevent further misconduct by DEJ and further contact with David E. Johnson, Jr.

Statement of the Case Continued

62. Upon receipt of the 99 page binder in Trenton mailed 6/14/82, I received a dishonest letter dated 7/15/82 in which he DEJ dared to represent that the complaint of 8/21/81 might be "misplaced" in the DEC V office and further that I forget my time, energy, effort and property concealed since 8/28/81 and file a third complaint. Appendix R.

63. The complaint of 8/21/81 is one thing, the concealment of the complaint of 8/21/81 by David E. Johnson and his counterparts in the DEC V office is another. On 1[illegible]/1/82 11/2/83 I mailed an ethics complaint against David E. Johnson, Jr. to the District Ethics Committee Office VII of Mercer County. Daniel F. O'Connell, Secretary answered all mail promptly and sent a carbon copy of all mail sent and received to his DEC VII chairman, John J. Trombadore in respect for himself and his chairman. Appendix S-T. Daniel F. O'Connell, Sec. referred the matter to Colette A. Coolbaugh, Esq. Assist. Dir. of Ethics by letter dated 11/5/82. Appendix U.

Statement of the Case Continued

64. As a result of the referral by DFO, I received a letter dated 11/29/82 from Colette A. Coolbaugh, Esq. which was so illegal that it seemed that Daniel F. O'Connell, Sec. had withheld the 16 page detail statement of case dated 11/2/82 from her. Appendix V. I noticed that DFO omitted all mention of the 16 page accompanying statement of case in item six of his list in his cover letter dated 11/5/82 (p.119).

65. So, I xeroxed another copy of the 16 page statement of case dated 11/2/82 for hand delivery myself to Colette Coolbaugh herself. Because of my experience with District Office secretaries in this matter, I could not believe that Daniel F. O'Connell, Sec. could be more ethical than Colette A. Coolbaugh. On Monday 12/6/82 when I arrived at the admin. office by 9:00 a.m. train to Trenton, Colette A. Coolbaugh had not reported to work.

Statement of the Case Continued

66. I was shown a foyer chair by her secretary Paulette Davis and while waiting, PD dialed Richard J. Englehardt, Esq. (p.28) his line was busy. PD then called David E. Johnson, Jr. himself to the foyer. DEJ came to the foyer and proved himself to have a vested interest in my own complaint as he refused to administer to the complaint of 8/21/81 in particular and DEJ went so far as to tell me in further fraud, that if I would file a third complaint, he himself would xerox from my copies the 300 pages cone concealed in the DEC V office. I refused.

67. PD left her foyer desk momentarily on other business in the main office. During her absence a person entered the foyer from the outside at about 9:45 with her wraps and ma made a right turn to the inside main office. I said to DEJ, "Was that Colette Coolbaugh?" DEJ said, "Yes". I said, I want to speak with her". David E. Johnson left the foyer to get Colette Coolbaugh. During the absence of DEJ, PD returned to her foyer desk. While still seated and waiting for CAC, Richard J. Englehardt, Esq. entered the foyer in answer to the call from PD.

Statement of the Case Continued

68. I thanked RJE for his honest letter dated 6/12/80. Appendix L. I expressed to RJE how important his letter had been. RJE accepted the thanks and returned to his office. I told PD that DEJ had gone to get CAC. PD said, "She is not in". I said, "Yes she is. She came in when you left the desk". I asked PD to describe CAC. PD said that CAC was shorter and smaller than herself. After awhile DEJ returned to the foyer with CAC his subordinate in administrative rank at his
69. side. They had talked. I stood up and removed the 16 page statement of c se regarding David E. Johnson from from a manila envelope and handed it to CAC. I explained to CAC that I was hand-delivering it to her because it did not seem from her letter dated 11/29/82 that she had not recd. her copy from Daniel F. O'Connell, Sec. and that I withdrew an ethics on 7/31/80 under the security of the DFAC letter dated 6/27/80. Appendix M. I sat down. CAC flipped a few pages. CAC said, have to file another complaint". I stood up. I told CAC that she hit the nail on the head because that is exactly what I did on 8/21/81 by certified mail.

Statement of the Case Continued

70. CAC could say nothing. CAC looked at DEJ. From about 9:30 to about 11:30 DEJ and CAC insisted that they would do nothing regarding the complaint of 8/21/81 regardless. I realized that it was the right thing to do to have traveled to Trenton on my own initiative to see for myself the measure of DEC and CAC in person. Colette A. Coolbaugh, Esq. said,

71. "What did it get you to file an ethics complaint against Mr. Johnson?" I stood up and said eye to eye to CAC who was in front of my foyer chair, "It got me standing here". Because I will not believe what they want me to believe, DEC and CAC left the foyer together in attempt to prove their falsehood, saying they were going to the file. They returned together waving four documents from the administrative file. They handed the documents to me and I discovered in person that the documents were fraudulently filed as charged and worse a big administrative by David E. Johnson and Colette A. Coolbaugh, Esq.

Statement of the Case Continued

72. David E. Johnson said nothing would be done about it and that I could (just as well) file another (third) complaint. DEJ left the foyer. Colette A. Coolbaugh asked for the documents back from me. I would not give them to her. They were brought to me for my inspection and I intended to inspect them. CAC tried to take the documents from me. CAC said, "Mrs. Cele I am giving you my time " Not so. Her letter dated 11/29/82 withheld time from everyone in the state she is hired to serve and every word she spoke on 12/6/82 was spoken in the foyer and not in her office as ethic requires and that at my initiative. The efforts of CAC to stand over my chair and take the documents caused me to lean backwards and sideways in the foyer chair with the papers held behind me in my right hand. CAC demanded that I give the papers to her. CAC said, "Mrs. Cele give them to me! I would not give them to her. CAC said in referring to her secretary Paulette Davis, "Mrs.Cele I have a witness!" The truth is that we (CAC and I) have a witness.

Statement of the Case Continued

72. CAC could not take the papers from me without force or help. CAC stopped trying and left the foyer to the outside in the direction of the elevators in a fluster. I sat in the foyer with the four sets of documents on my lap. PD sat at her foyer desk. Paulette Davis asked if she could get anything for me. I said, "Just tissue". I needed the tissue to dry my tears of sagacity. I began to inspect the documents. CAC returned to the foyer from the outside and said without breaking step, "Alright you can just sit there and read them! (which is exactly what I was doing) and walked straight into her office and closed the door.

73. I inspected each document and carefully recorded the data from each on the back of an empty manila business envelope. After inspection I handed the four sets of documents to PD in two piles and requested that she attach a note to each pile indicating those fraudulently filed as charged for the return to Colette Coolbaugh who was closed off in her own office. continued

74. I left the Admin.office and walked to the Amtrak station just in time to board a train scheduled to leave Trenton a 11:30 a.m. Before departure, while seated on the train I thought to myself, "That was not Colette Coolbaugh". I stepped off the train and walked back to the Admin. Office. I entered the foyer from the outside and told Paulette Davis that I would like to speak with Colette Coolbaugh. While waiting in same foyer two building employees entered the foyer from the inside. One of the men said, "Is Colette in?" PD answered, "Yes". He said, "We want to speak with her for a minute and also inspect the telephone".

75. The two men were shown into the office of CAC. Next, CAC the same person, came out came out of the same office, into foyer as requested by PD. I told CAC that I returned from a train because I was not sure that she could be Colette Coolbaugh and that the two gentlemen ahead of me were somewhat helpful in establishing her identity. continued

76. I repeated to CAC my purpose in coming to Trenton to hand deliver the 16 page statement of case to her because from her letter dated 11/29/82 it did not seem that she had read it and that after having talked with her it still seemed that she had not read it. CAC said that she had received and read the statement of case and CAC stooped further to trifle with terms and said it was "just a chronological history" and refused to

77. investigate. I told CAC that I was not sure that she was CAC but that if she was CAC I give her a few demerits (in integrity). I left the admin. office and walked to the law library near the state house annex. With the help of the reference librarians, I found and xeroxed a state photo of Colette A. Coolbaugh, Esq. I boarded a 3:30 p.m. train leaving Trenton. Upon arrival at home, on same Monday 12/6/82, I mailed to Colette A. Coolbaugh, Esq. by certified mail #350625721 dated 12/6/82 a copy of her photograph in positive identification of herself. continued

78. David E. Johnson, Jr., Esq. and Colette A. Coolbaugh, Esq. failed to carbon copy their letters to Robert D. Lipscher, Administrative Director of the Courts. Colette A. Coolbaugh failed to carbon copy her letter dated 11/29/82 to Daniel F. O'Connell, Esq., Sec.

79. Thanks to Daniel F. O'Connell, Sec. I discovered on 12/6/82 after ten months (3/6/82 to 12/6/82) that David E. Johnson, Jr. is illegally involved in this matter. Thanks to Daniel F. O'Connell, Sec. I discovered on 12/6/82 after only seven days (11/29/82 to 12/6/82) that there was not a reason in the world to respect Colette A. Coolbaugh another minute.

Conclusion

Argument

The United States Supreme Court held in McAllister v. Kuhn that fatal defects cannot be waived.

Law Cited

By the Code of Practice of Utah the failure of McAllister to appear at the time of assessment of damages was a waiver by him of an assessment by a jury. This court has no power to re-examine the action of the territorial courts in refusing to set aside the judgment by default. We find no error in the record.

Opinion of Chief Justice Waite
McAllister v. Kuhn
96 U.S. 87 1877

Argument Continued

Point 1

1. The judicial act of 6/1/81 was false when acted upon.

Law Cited

The failure of McAllister to appear is a fatal defect which cannot be waived. The plaintiff Mrs. Dorothy Cele appeared on 6/1/81 and without spot or blemish and the absence itself of the mandatory record shows that the instant case has a judicial default in it and all else is commentary. 96 U.S. 87.

Due Process

2. Due process of law without a record cannot serve a constitutional government, a government of protection.

Argument Continued

Point 2

1. The judicial act of 6/1/81 lacks class. No one will follow it.

Judicial Opinion

When the order is obeyed the end of litigation is reached. Opinion of Chief Justice Hazelrigg Weaver v. Toney 107 Ky. 419 1899

Pleadings

2. Pleadings are the juridical means of investing a court with jurisdiction of the subject matter to adjudicate it.

Argument Continued

Point 3

1. The judicial act of 6/1/81 is a fatal defect. A disinterested judge is a fundamental right.

Judicial Opinion

Jurisdiction of the subject matter cannot be waived.

Cooper v. Reynolds 10 Walls 308

Jurisdiction

2. To hold that pleadings can be waived is to hold that the public is not interested; that consent will give jurisdiction of the subject matter.

Argument Continued

Point 4

1. The judicial act of 6/1/81 failed to protect the public weal.

Judicial Opinion

> No court can act without or out of, above or beyond its record and bind any person or thing by its judgment or decretal orders.
>
> Storey v. Ashton

Mandatory Record

2. What ought to be of record must be proved by record and by the right record.

Argument Continued

Point 5

1. The judicial act of 6/1/81 is against the law.

Judicial Opinion

For jurisdiction is the right to hear and determine; not to determine without hearing. Windsor v. McVeigh 93 U.S. 274 1876.

2. The mandatory record must speak for itself. Nothing beyond that can be decided upon by any court without usurpation.

Argument Continued

Point 6

1. The judicial act of 6/1/81 is inconvenient.

Judicicial Opinion

If the court had no jurisdiction it had no power to make a record and the supposed record is not in truth a record.

Reyonds v. Crawforu 70 NY 258 1877.

Due Process

2. The courts possess no dispensing power to enforce the requirements of due process in one instance and suspend them in another.

Argument Continued

Point 7

1. The judicial act of 6/1/81 is beyond jurisdiction.

Judicial Opinion

A litigant has right to trial and a denial of right to trial is reviewable. Although prompt dispatch of judicial business is a virtue, it is neither the sole nor primary purpose for which courts have been established. Denial of trial on disputed facts is worse than delay.
Opinion of Judge Frank
2 Fed. Supp. 218.

Record

2. In no system can the record be dispensed with.

Argument Continued

Point 8

1. The judicial act of 6/1/81 makes distinctions. The court cannot make distinctions.

Judicial Opinion

Perhaps no better form of expression can be devised to advise the judge that his ruling is to be made the subject of review than for counsel to say, I desire to note an exception.

Opinion of Chief Justice Trenchard. 85 N.J.L. 632 1914

Ab nitio

2. Nullities need not be excepted to.

Argument Continued

Point 9

1. The judicial act of 6/1/81 is in the defendants favor. A judge cannot choose his own cases.

Judicial Opinion

Since the lawgiver has said in so many words that not all error but a certain kind is reversible error it behooves a court whose function it is to enforce the written law between man and man to see sharply to it that it leads the way of setting a good example in obeying the written law on its own duty. Hon. Fred C. Lamm, C.J. Supreme Court of Missouri. 161 SW 156-57.

2. Defenses not pleaded are waived. If the defendant has a defense he should plead it.

Argument Continued

Point 10

1. The judicial act of 6/1/81 approbates and reprobates.

Judicial Opinion

If the jurisdiction of the court as to the subject matter is not impeached, the record of such judgment is entitled to full faith and credit.

Starbuck v. Murray 5 Wendell 158

1877.

Legislatures

2. Legislatures give a Code and courts slander and nullify it.

Argument Continued

Point 11

1. The judicial act of 6/1/81 in refusal to assume jurisdiction of the subject matter divested itself thereof.

Constitution

The Constitution of the U.S. Article conferred on Congress the power to prescribe the effect and mode of authenticating of judicial proceedings, as between the several states. Law of Congress 5/26/1790 Biorens & Duane's Edition vol.2 p. 210. Thomas v. Robinson 3 Wendell 268.

Due Process

2. The due process of one state is the due process of all.

Argument Continued

Point 12

1. The judicial act of 6/1/81 is legal injury to the group life.

Judicial Opinion

"As to the petitioner's second suggested remedy, vis., that of a motion to set aside such void order in the court making the same; in response to this suggestion it may be stated that it has never been the practice to require a party injuriously affected by a judgment or order of a court, which court had never acquired jurisdiction over either his person or property to make the same, to first apply to the court first making such void order and thus commit himself thenceforward to the tender mercy of the court making same." Opinion of J. Richard, pro tem 192 Cal. 528 93 Cal. 321 1923.

Due Process

2.2. The law hears before it decides.

Argument Continued

Point 13

1. The judicial act of 6/1/81 cleansed itself of the filth of the world because the universe can be bet upon every time. Betabilitarian.

Fourteenth Amendment

The Fourteenth Amendment is a guarantee against arbitrary procedure.

The State

2. Barbarous procedure pays no respect to the necessities of the state and its record for all its varied purposes but proceeds on the theory that the conduct and consent of parties litigants make the rules which may be gathered from documents.

Argument Continued

Point 14

1. If one owes 15f he cannot discharge it by paying 5f.

Article 6

> Supreme Court of the United States is the final arbiter of all controversies which involve the Constitution of the court or the meaning scope or effect of that instrument. Article 6.

2. No man can be judge in his own dispute. Ye cannot serve God and Mammon is the supreme law.

Argument Continued

1. Can the necessities of Res Adjudicata be waived?

2. Does not jurisdiction of the subject matter come from the allegations?

3. Must not the allegations, the denials and the issues be gathered from the pleadings only?

4. Are not a court and its jurisdiction principal things?

5. Can courts that deny the attitude of the state in proceedings be relied upon?

6. Are the dictates of Interest reipublicae ut sit finis neglible?

7. Is legal injury the cost of daily living?

Argument Continued

8. What may and may not be waived?

9. What may and may not be stipulated and contracted away?

10. What is material variance; and what variances are destructive of the conserving policies?

11. What is a substantial and forebidden departure?

12. What constitutes the foundation of a judgment in a government of protection?

13. What is a nullity and what is mere irregularity?

14. That the study of procdure is a study of government.

Argument Continued

15. May each court make procedure for itself?

16. What could be more dangerous and insidious than a court without a record?

17. May a court command a litigant to do what is prohibited by natural law?

18. That courts can make of themselves a hierachy if they choose?

19. That it can dispense with the record and still have due process?

20. Here let me ask if every man can be his own lawyer in such a court.

21. Is it not judicial arnachy?

22. Is not there organic law?

Summary

The admission of one defendant is competent proof against all.

A judicial act is either just or unjust.

Conclusion

The plaintiff, Mrs. Dorothy Cele has waived none of her rights.

Relief Requested

Adjudication. Judicial Justice. I cannot be prejudiced for filing for respect of right and just compensation for damage by law.

For the foregoing reasons, the Petitioner prays that the Petition for Certiorari be granted.

Respectfully Submitted,

Mrs Dorothy Cele

Mrs. Dorothy Cele, pro se

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